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OFFICE OF PETITIONS

In re Patent No. 7576063 : DECISION ON REQUEST
Fujikura et al. : FOR
Issue Date: 08/18/2009 : RECONSIDERATION OF
Application No. 10/529895 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 09/19/2005 :
Atty Docket No. :
Q87150 :

This is a decision on the REQUEST FOR RECONSIDERATION filed on June 7, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted is either 969 days or 801 days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of eight hundred eighty-eight (888) days.

The calculation of delay pursuant to 37 CFR 1.702(b) is based on the date the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. While applicants filed an express request under 35 U.S.C. 371(f), not all requirements under 35 U.S.C. 371 were filed prior to 30 months from the priority date. Accordingly, the national stage commenced under 35 U.S.C. 371(b) on April 4, 2005, 30 months after the priority date of October 4, 2002. On August 18, 2009, three years and 501 days after the day after the date the national stage commenced, the application issued as U.S. Patent No. 7,576,063. Considering the 81 overlapping days beginning on April 5, 2008, the day after the date three years after the application commenced the national stage under 37 U.S.C. 371(b), and ending on June 24, 2008, the date the first Office action was mailed, the period of adjustment under 37 CFR 1.702(b) is 420 (501 – 81) days.

Accordingly, no change will be made to the patent term adjustment of 888 (583 days Office delay + 420 days three years delay – 115 days of applicant delay) days indicated on Notice Concerning Improper Calculation of Patent Term Adjustment Based Upon USPTO Improperly Measuring Reduction Period Under 37 CFR 1.704(c)(10), mailed on May 17, 2010.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

A handwritten signature in black ink, appearing to read "D Wood", is positioned above the printed name.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions